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VOL. XIX, No. 22

MONDAY, APRIL 19, 1926

WHOLE No. 525

The Classical Association of the Atlantic States Twentieth Annual Meeting

HOUSTON HALL, UNIVERSITY OF PENNSYLVANIA

Friday, April 30, at 3:00

Words of Welcome, by Dr. GEORGE WILLIAM McCLELLAND, Vice-Provost of the University of Pennsylvania.

Response, by Dr. ELLIS A. SCHNABEL, President of The Classical Association of the Atlantic States.

Paper: *The Human Element in Inscriptions*, Mr. FRANKLIN B. KRAUSS, University of Pennsylvania.

Papers: *Proposed Definition, by the College Entrance Examination Board, of the Requirement in Latin*, Dr. B. W. MITCHELL, Central High School, Philadelphia; Professor NELSON GLENN MCCREA, Columbia University.

Report of the Executive Committee; Appointment of Committees.

Friday at 7:00—Annual Dinner

After the Dinner, there will be two papers (illustrated):

Recent Discoveries in Rome and its Neighborhood, Professor JOHN C. ROLFE, University of Pennsylvania.

Pompeiana, by Professor WALTON BROOKS MCDANIEL, University of Pennsylvania.

Saturday Morning, May 1, at 9:15

Paper: *Plato's Apology and Xenophon's Apology*, Professor L. R. SHERO, St. Stephen's College, Annandale-on-Hudson, New York.

Paper: *Sharp Business Dealings in Greece*, Professor CASPER J. KRAEMER, Jr., New York University.

Paper: *Some Greek Notions of Freedom*, Professor WALTER R. AGARD, St. John's College, Annapolis, Maryland.

Paper: *The American School of Classical Studies at Athens*, Professor JANE GREY CARTER, Hunter College, New York City.

Paper: *Aristophanes and the Country*, Professor H. LAMAR CROSBY, University of Pennsylvania.

Election of Officers; Reports; Resolutions.

Saturday, Afternoon, at 2:15

Paper: *Reading for Content Versus Translation*, Professor HELEN H. TANZER, Hunter College, New York City.

Paper: *Cognate Words in Elementary Latin*, Mr. STEPHEN A. HURLBUT, St. Albans School, Washington, D. C.

Paper: *The Classical Association of the Atlantic States, 1925-1926, 1896-1926*, Professor CHARLES KNAPP, Barnard College, Columbia University.

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The Classical Weekly

VOL. XIX, No. 22

MONDAY, APRIL 19, 1926

WHOLE No. 525

THE LOEB CLASSICAL LIBRARY ONCE AGAIN

(Continued from page 168)

(6) Frontinus. The Strategems and The Aqueducts of Rome. By Charles E. Bennett. The Translation of the Aqueducts being a Revision of That of Clemens Herschel. Edited and Prepared for the Press by Mary B. McElwain. Pp. xl + 484 (1925).

The contents of the volume on Frontinus are as follows:

Preface (v-vii); The Life and Works of Sextus Julius Frontinus (xiii-xxvii); The Manuscripts (xxviii-xxxiv): I. Of the *Strategemata*, xxviii-xxxii, II. Of the *De Aquis*, xxxii-xxxiv); Bibliography (xxxv-xl); The Strategems of Sextus Julius Frontinus (1-327); Sextus Julius Frontinus: The Aqueducts of Rome (329-467); Index of Proper Names in the Strategems (469-481); Index of Proper Names in The Aqueducts (482-484).

The eight illustrations include a Map of Aqueducts, a Map of Rome and Vicinity, and Tables Showing the Water Supply of the City of Rome.

The Preface, by Miss McElwain, who is Professor of Latin in Smith College, gives information concerning the genesis of this work. Professor Bennett died in May, 1921. He had completed his draft of the translation of the Strategems, and that of the revision of the translation of the *De Aquis*, by Mr. Clemens Herschel, originally published in 1899 (see below). Professor Bennett had also, by footnotes, shown his attitude toward the texts he had adopted as the basis of his translation.

... For the editorial revision of the versions, the introductory material, the index, many of the footnotes and the general matters of typography, the responsibility should rest with the undersigned⁴.

There are only two versions in English of the *Strategemata*, that of Lieutenant Robert Scott, which leaves "much to be desired both in the matter of interpretation and the manner of expression" (Preface, v), and the present version by Professor Bennett⁵.

The translation of the *De Aquis* here presented has a most interesting history. Mr. Clemens Herschel, "not a Latin scholar", but a "hydraulic engineer", had made Frontinus "his hobby and pastime for many years" (vi). Since no Latin scholar seemed minded to put forth a translation of Frontinus, Mr. Herschel

finally published a version. Professor Bennett helped Mr. Herschel in many ways, says Miss McElwain (Preface, vii), in the preparation of this volume, so much so that, in his Preface, Mr. Herschel declared that the translation was "fairly his <Professor Bennett's> own". Miss McElwain continues thus (vii):

... When, therefore, Professor Bennett was considering the preparation of this volume, Mr. Herschel generously turned over to him for revision his translation, which for twenty-five years has continued to be the only English version of the *De Aquis*....

The name of this important work by Mr. Herschel is not given in the Preface. In the Bibliography (xxxix), it is named as The Two Books on the Water Supply of the City of Rome. Further, though the date of its publication was given, on page xxxix, a few lines above the title, as 1899, the place of publication is not named. Nor are the names of the publishers given. In the *Encyclopaedia Britannica*⁶, 11.250, under Frontinus, the place and the date of publication are given as "Boston, Mass., 1899". I looked up Mr. Herschel in *Who's Who in America*, on a Sunday evening, in my study at home. There the title of the book is given as "Frontinus and the Water Supply of the City of Rome, 1899". I wrote to Mr. Herschel, asking him to give me a typewritten reproduction of the title-page of his book. By the following Tuesday, I had a reply.

The full title of the book is too long to be quoted here. The pertinent part runs as follows: "The Two Books on the Water Supply of the City of Rome of Sextus Julius Frontinus Water Commissioner of the City of Rome 97 A. D. ... Second Edition".

The publishers are Longmans, Green and Co., New York, London, Calcutta, and the date is 1913. A second note to Mr. Herschel brought back with equal promptitude the statement that the first edition had been published in Boston, in 1899, by Dana Estes and Company, a publishing house "long since extinct", said Mr. Herschel.

I next examined copies of both editions of Mr. Herschel's book, and verified the statements made above.

A similar laxity characterizes, unhappily, other parts of the Bibliography. Thus, on page xl, we find the following entries: "R. Lanciani, *Ruins and Excavations of Ancient Rome*"; "J. H. Middleton, *The Remains of Ancient Rome*"; "S. B. Platner, *Ancient Rome*"; "C. E. Bennett, 'A Roman Waring', *Atlantic Monthly*, 1902, p. 382". Here dates, and the names of publishers and of places of publication are lacking. It would not have hurt to indicate, also, that Middleton's book was in two volumes. Further, to describe Professor S. B. Platner's book, whose exact title is *The Topography and Monuments of Ancient Rome*, merely as "Ancient Rome", and to ignore the fact that the book reached a

⁴Miss McElwain was here, in certain respects, too generous. Supervising Editors of a series have a heavy responsibility. It is their business to see that there is uniformity in certain matters, such as typography, the mode of constructing Bibliographies, and the character of those Bibliographies. On the failure of the Supervising Editors of the Loeb Classical Library, in the case of some books at least, to meet their responsibility in such matters, I have commented several times. See e.g. my remarks on Herodotus, IV, by Mr. A. D. Godley, and Plato IV, by Mr. W. R. M. Lamb, *THE CLASSICAL WEEKLY* 18.162, 181. See also below, page 176, on Plato V, by Mr. Lamb.

⁵Miss McElwain dates Lieutenant Scott's version in 1811 (London). In the *Encyclopaedia Britannica*⁶, 11.250, under Frontinus, the date is given as 1816.

second, much improved edition (first edition, 1904, second edition, 1911) is to commit what seem to me serious offences against scholarship. Bibliographical material is valueless, unless it is at once accurate and minute. Nor does it seem improper to call attention to the fact that a certain periodical is called *The Atlantic Monthly*. I am aware that over and over again *The Classical Review*, *The Classical Journal*, and *THE CLASSICAL WEEKLY* are cited without the initial *The* which forms a part of their legal titles, but the practice is not one to be encouraged. Further, Professor Bennett's article, *A Roman Waring*, certainly covered more than one page. On pages xxxvi-xxxvii the references to at least a dozen articles, most of which are, beyond question, lengthy, give only their first page.

In all this I see no *pietas* toward the memory of so fine a scholar and teacher as Professor Charles E. Bennett was.

(7) *Plato*, III. Pp. xx + 450 (1925).

The third volume of the Loeb Classical Library translation of Plato contains a version of *The Statesman* (*Politicus*) and the *Philebus*, by Professor Harold North Fowler, of Western Reserve University, and a translation of the *Ion*, by Mr. W. R. M. Lamb. Besides the translations, the book contains a General Introduction (ix-xix), by Mr. Lamb, on Plato's life and works (identical with that in Volume IV: see *THE CLASSICAL WEEKLY* 18.181), and brief Introductions to the individual dialogues, in each case by the translator. There is also an Index <of Proper Names> (448-450). For notices of earlier and later volumes of this translation of Plato see *THE CLASSICAL WEEKLY* 15.189, 18.181.

(8) *Dio's Roman History*, VIII. By Earnest Cary. Pp. v + 482 (1925).

Of the translation of Dio Cassius by Earnest Cary, a rendering based on that by Herbert Baldwin Foster (the first English translation of Dio, published at Troy, New York, 1905-1906), eight out of nine volumes have now been published. Volume VIII contains text and translation of the *Epitomes* of Books 61-70, by Xiphilinus, a monk of Constantinople, who made an abridgement of Dio, Books 61-70, between 1071 and 1078 A.D.

Mr. Cary's volume contains also an Index <of Names and Subjects>, on pages 475-482.

For notices of earlier volumes of this translation see *THE CLASSICAL WEEKLY* 7.102, 18.181.

(9) *Plato*, V. By W. R. M. Lamb. Pp. xix + 536 (1925).

The fifth volume of the Loeb Classical Library translation of Plato, done by Mr. W. R. M. Lamb, contains a General Introduction, identical with that in Volume IV, reviewed in *THE CLASSICAL WEEKLY* 18.181, and Volume III, reviewed above, page 176, though there is nowhere in the book a hint to that effect (ix-xix), Introduction to the *Lysis* (3-5), *Lysis* (6-71), Introduction to the *Symposium* (74-79), *Symposium* (80-245), Introduction to the *Gorgias* (249-257), *Gorgias* (258-533), Index of Names (534-536).

Mr. Lamb takes far too lightly certain aspects of his

work. In *THE CLASSICAL WEEKLY* 18.181 I called attention to the inadequate and antiquated bibliographical material given by him in his volume (*Plato*, IV) containing versions of the *Laches*, the *Protagoras*, and the *Meno*. The bibliographical material in the volume now under consideration is worse even than that in the earlier volume. For the *Lysis* no bibliography at all is given. At the close of the Introduction to the *Symposium* (79) the reader is referred to two things: "... Jowett's Introduction (1892), and Dr. R. G. Bury's useful edition (1909)". Here, as in the earlier volume, Mr. Lamb seems not to know anything about any work on Plato within the last fifteen or twenty years. At the close of the Introduction to the *Gorgias* (257) Mr. Lamb writes: "The best modern edition of the *Gorgias* is that of W. H. Thompson (1871). The present edition is indebted at many points to the accurate and spirited version of E. M. Cope (Deighton Bell, 1864)". At last Mr. Lamb deigns to name a publisher. One of the two books he names was 54 years old, the other 61 years old when Mr. Lamb's book appeared. Professor Lodge, by the way, edited the *Gorgias* (Ginn and Company, 1880). He based his edition on that of Deuschle-Cron, fourth version (Leipzig, 1886). He made use of Thompson's edition, but evidently did not regard it as superior to that of Deuschle-Cron.

On page xx Mr. Lamb had given a <general> Bibliography. The latest work mentioned there is dated in 1914. W. Lutoslawski's book, *The Origin and Growth of Plato's Logic* (1897), is listed, but Professor Shorey's name does not appear. Mr. Lamb is evidently utterly ignorant of American work on Plato. The supervising editors of the Loeb Classical Library, one of them an American, should have filled the gaps in Mr. Lamb's knowledge.

(10) *Plato*, VI. By Harold North Fowler, of Western Reserve University. Pp. vii + 480 (1926).

The contents of the Loeb Classical Library *Plato*, Volume V, by Professor Harold North Fowler, are as follows: Introduction to the *Cratylus* (3-5); *Cratylus*, Text and Translation (6-191); Introduction to the *Parmenides* (195-197); *Parmenides* (189-331); Introduction to the *Greater Hippias* (334-345); *Greater Hippias* (336-423); Introduction to the *Lesser Hippias* (426-427); *Lesser Hippias* (428-475); Index <Nominum et Rerum> (477-480).

For a notice of other volumes of the Loeb Classical Library *Plato* done by Professor Fowler see *THE CLASSICAL WEEKLY* 15.189. See, too, above, page 176, under item (7).

(To be concluded)

CHARLES KNAPP

CAESAR'S COMMAND IN GAUL¹

Our whole attitude toward Caesar and his policy depends upon the establishing of certain dates, chief among which is the date of expiration of his command

¹This paper was read at the Nineteenth Annual Meeting of The Classical Association of the Atlantic States, held at Swarthmore College, May 1-2, 1925.

in Gaul. For many years it had been believed that Caesar's provincial command expired legally at the end of 49 B. C. But in 1857 Mommsen published his treatise *Die Rechtsfrage Zwischen Caesar und dem Senat* (included now in his *Historische Schriften*, Volume 1), wherein he argued that the date was March 1, 49. This opinion stood until 1904-1905, when Otto Hirschfeld (*Klio* 4.76-87, 5.236-240) argued that Caesar's command was not definitely secured beyond March 1, 50. Ludwig Holzapfel defended Mommsen's position, but not very convincingly (*Klio* 4.107-116). In 1913, Walther Judeich argued (*Rheinisches Museum* 68, 1-10) that the date was December 29, 50. This evoked a response from Mr. T. Rice Holmes (*The Classical Quarterly* 10 [1916], 49-56) and from Mr. E. G. Hardy (*Journal of Philology* 34 [1918], 161-221), both of whom defended Mommsen's view².

Mommsen's theory is briefly this. Caesar, by the provisions of the Vatinian Law, received a provincial command of five years, extending from March, 59, to March 1, 54. At the conference of Luca in 56 Caesar's term was extended for another five years. At that time the Sullan system of provincial administration and the Lex Sempronia were still in force. There was then included in the agreement a clause that the succession to Caesar's provinces should not come up for discussion until March 1, 50. Under the Lex Sempronia, Caesar's provinces would fall only to the consuls who were elected in July, 50, for the year 49. These would not be able to assume the proconsular office until 48. Caesar could not come back to Rome and canvass for the consulship without laying down his *imperium*; so another clause was added granting Caesar the *absentis ratio*, that is, the right to be a candidate in absence. In this way Caesar's future was secure. His command would expire legally on March 1, 49, but his successors could not arrive until January 1, 48. In July, 49, Caesar could be candidate in absence; in January, 48, he could step directly from his provincial governorship into the consulship, thus avoiding any interval during which, as *privatus*, he would be open to the attacks of his enemies.

Caesar's original five-year appointment was secured through a law carried by Vatinius. This law assigned to Caesar the combined provinces of Cisalpine Gaul and Illyricum; his tenure of office was five years, dating apparently from March. This view, that the Vatinian Law belongs early in the year 59, seems to be substantiated by the fact that Cicero, in a letter written in April, 59 (*Ad Att.* 2.6.2), refers to Vatinius as a notorious character, which might indicate that, when the letter was written, Vatinius had already become prominent as the sponsor of the law which granted to Caesar his command of five years.

Professor Evan T. Sage has advanced the theory that the Vatinian Law belongs late in the year 59 (*American Journal of Philology* 39 [1918], 367-382). He points out that there is no contemporary reference to the law. He continues thus (378):

²For Mr. Hardy's paper, see Professor E. T. Sage's comments, in his review of E. G. Hardy, *Some Problems in Roman History*, etc., *THE CLASSICAL WEEKLY* 19.149 (March 15, 1926). C. K. >

... In the absence of more positive evidence we may assemble general probabilities. First, the position of the references in the sources indicates a relatively late date.... Second, the character of the earlier events of the year must be considered....

He then states that the agrarian laws, and the concession regarding the Asian taxes were partly vote-getting devices, partly payment of Caesar's political debts. Appian declares that the acceptance of the Vatinian Law was the result of the lavish entertainment given to the people by Caesar. Professor Sage believes that these exhibitions can hardly be placed before summer, and possibly not before autumn (379). He also stresses the fact that the triumvirs were hissed in the theater in July, which might show that there was still in Rome an element opposed to them (379). From this he draws the inference that, if the rabble had been so inimical to Caesar as late as July, the triumvirs could not have carried such a measure as the Vatinian Law. In other words, before he had placated the people with the agrarian laws, Caesar could not hope to obtain from them such a concession as the Lex Vatinia. "It seems then", says Professor Sage (379), "that we should place the Vatinian law at least in the latter half of the year, probably in the last third". Then, in a note, he adds, "In any case it came before December 9, when Vatinius retired from office...."

In opposition to the theory held by Professor Sage the following considerations may be urged. Caesar had offered in June to take Cicero with him as *legatus* (*Ad Att.* 2.18.3). Cicero knew that, in this office, he would be near Rome, for he says that he would be at liberty to come to Rome at any time. This would imply that the *legatio* could not be in Spain or in Africa. Pompey had threatened the opponents of the agrarian law with the words, *Oppressos vos tenebo exercitu Caesaris* (*Ad Att.* 2.16.2, dated about May 1). The army referred to was one that might be used at Rome to force through agrarian legislation; it was not an army in contemplation for 58. The only soldiers available were those whom the Metellus government of Gaul was levying for the Helvetian War. The inference is that Caesar had already succeeded Metellus. Professor Sage himself admits that there is no irrefutable evidence for the date of the law, and I think that we are safe in believing that the Vatinian Law was passed early in the year, if not on March 1, at least near that date.

It is generally agreed that the statement in Cicero, *De Provinciis Consularibus* 37, proves that the five years for which Caesar was originally appointed ended on February 28, 54. The extension of his command decided on at Luca was to be for another five years. There is an abundance of testimony for this: Cicero, *Ad Att.* 7.7.6, 9.4, *Phil.* 2.24; Velleius Paterculus 2.46.2; Plutarch, Pompey 51-52, Crassus 15, Caesar 21; Appian, *Bella Civilia* 2.17-18; Suetonius, *Iulius* 24. The only piece of contrary evidence is in Dio Cassius 39.33.3, 44.43.2 (compare 40.59.3). Dio says that the duration of the second command was three years. Dio is not always to be trusted. Here the weight of evidence is surely against him.

Let us now examine the position of Hirschfeld, that Caesar's command was not definitely insured after March 1, 50. In May, 50, Caelius wrote thus to Cicero (Ad Fam. 8.11.3):

'... Pompey seems to have taken sides with the Senate that Caesar should retire on November 13; Curio has decided to endure anything rather than permit this.... Pompey, though he is not attacking Caesar, nevertheless has made a decision which he thinks favorable to him, and says that Curio is only looking for trouble; he is, however, unwilling and evidently afraid that Caesar should be consul-designate before he shall have given up his army and his province'.

Now Hirschfeld avers that, if the Lex Pompeia-Licinia had stipulated that Caesar's command should not terminate before February 28, 49, Pompey would have no grounds for his claim that his desire to recall Caesar on November 13, 50 was at all reasonable. Caelius, in writing to Cicero, had no need to specify the year, because Cicero might be presumed to know when Caesar's command was to end, and the phrase about making an agreement favorable to Caesar might imply that the year was 49. Caesar could not become consul-elect before July, 49, and to insist that he retire from his province nearly eight months before that could hardly be called a favorable agreement. If Caelius meant 49 and not 50, Pompey might with some show of reason claim to be making an equitable settlement. Per contra, if Caelius knew what he was talking about, his remark that Pompey was afraid of Caesar's becoming consul-designate before giving up his army might suggest that Caelius had in mind the year 50. But there is a passage in Hirtius which indicates that Caesar's government did not expire before the end of the year 50, and, therefore, if Caelius had that year in mind, the agreement which Pompey considered so fair was really quite the opposite. Hirtius, describing the siege of Uxellodunum, says that the Gauls knew that the summer of 50 would be Caesar's last summer in Gaul (B. G. 8.39.3): ... cum omnibus Gallis notum esse sciret reliquam esse unam aestatem suae provinciae, quam si sustinere potuissent nullum ultra periculum vererentur. Hirschfeld, on the authority of a scholar named Bardt, supposes that *unam aestatem* means not the summer of 50, but the summer of 51, when the siege took place. He inquires why Caesar should be so anxious to conclude the siege if he had in prospect another whole summer. He concludes that the statement of Hirtius corroborates Dio's theory of the three-year command. When Caesar started for Uxellodunum, it was already well along in the summer, because, when the siege was over, the summer was practically ended. Therefore, if Hirschfeld is right, *reliquam esse unam aestatem* must be equivalent to *reliquam esse exiguum partem aestatis*, which is a rather impressionistic interpretation of the Latin. The phrase means 'there was left one summer', not 'there was left a small part of one summer'. Caesar hurried the siege, because he wanted to get it over with, instead of allowing the Gauls to defy his lieutenants and conduct a guerilla warfare against them.

In another instance Hirschfeld relies for his evidence upon a strange interpretation of the text. Cicero says (Ad Att. 7. 7. 5-6),

'... Do you consider the Senate to be good when by its authority the provinces are left without commanders? Curio never would have maintained his purpose if an attempt had been made to deal with him. But the Senate would not follow this advice, with the result that a successor to Caesar is not appointed'.

The evident interpretation of this is that Curio had vetoed the measure for appointing Caesar's successor, so that the provinces were, from that point of view, *sine imperio*. Since, by Cicero's own statement, Caesar had not been superseded when the letter was written (between December 18 and 21, 50), the future of the Gallic provinces had not yet been settled.

Cicero then proceeds:

... Quid ergo? Exercitum retinentis cum legis dies transierit rationem haberi placet? Mihi vero ne absentis quidem, sed, cum id datum est, illud una datum est. Annorum decem imperium et ita latum placet? Placet igitur etiam me expulsum et agrum Campanum perisse.... Sed horum omnium fons unus est. Imbecillo resistendum fuit.... Cum hoc aut depugnandum est aut habenda e lege ratio.

Hirschfeld maintains (1) that the words *cum legis dies transierit* show that Caesar's command had expired, and (2) that *annorum decem imperium* refers to the actual, not to the legal, length of the command. As to the first point, the tense of *transierit* shows that the date is still in the future. As to his second point, Hirschfeld finds difficulty with *et ita latum*; so he emends to *ei ita datum*, and rejects *placet*, thus helping the text to fit his theory. So far as this passage is concerned, Hirschfeld has not succeeded in invalidating Mommsen's theory.

We come now to the crucial passage in Hirschfeld's argument. Cicero (Ad Att. 7.9.2-4, written between December 24 and 27, B. C. 50) mentions several possible courses of action. He says that it is necessary (1) to admit Caesar's pretensions, while he still retains his army either by authority of the Senate or by virtue of a tribunician *intercessio*, or (2) to persuade Caesar to resign his command and stand for the consulship, or (3) that the comitia should be held with Caesar's permission while he still retains his province, or (4), that if, through interference of the tribunes, Caesar will not permit this, but does not otherwise make trouble, an interregnum may be declared. But if Caesar brings up an army to enforce his claims, then he must be met with force, but he must either begin the contest at once before the senatorial party is ready, or wait for his friends to present his claims and then resort to arms if these claims are rejected. Cicero also hints at a possibility which actually occurred, namely, that, if a tribune should be circumvented by the Senate and should flee to Caesar, Caesar would use this as an excuse for entering on war.

Cicero then delivers this apostrophe to the absent Caesar:

... Tenuisti provinciam per annos decem non tibi a senatu sed a te ipso per vim et per factionem datos; praeterit tempus non legis, sed libidinis tuae, fac tamen legis; decernitur ut succedatur; impedis et ais "Habe meam rationem". Habe tu nostram. Exercitum tu habes diutius quam populus iussit, invito senatu?

On the basis of this passage Hirschfeld contends that

Caesar's term did not extend to March 1, 49, because it had already expired when Cicero wrote the letter in December, 50. In the first place, there is no reason for not supposing that *tempus legis* refers to March 1, 49. That was the day which was being awaited by everyone, the day on which Caesar would be obliged to make clear his intentions. The passage is intelligible if we assume that Cicero is speaking from the point of view of that day; it is to be interpreted as meaning 'when that day comes, this is what we shall say to Caesar'. According to Hirschfeld's interpretation, *decem annos* is an approximate number; Caesar had been in his province a few days less than nine years and ten months, and Cicero, speaking in general terms, calls it ten years. If, however, we suppose that Cicero is speaking from the point of view of March 1, 49, we are relieved of any dealing with round numbers; the words *decem annos* are then to be construed in their strictly literal and legal sense.

When we scrutinize Hirschfeld's statement that the phrase *praeterit tempus legis* proves that the time-limit for Caesar's command had already expired, we find some confusion. He states that the only time-limit established by law was March 1, 50, which was a permissive date after which the Senate might take action regarding Caesar's successor. But the arrival of this date did not bring to a close Caesar's command, unless the Senate had passed the decrees necessary to supplant him. In December, 50, the *tempus legis*, the time when the Senate might consider the matter, had passed, but Caesar's command was not terminated in December, 50, as Hirschfeld contends, unless the Senate had definitely passed the necessary decrees. Cicero says in the same letter, *ut succedatur decernitur; impedis*, 'Decrees are brought forward to appoint your successor: you offer obstacles'. Cicero's own words show that in December, 50, the decrees which would remove Caesar had not yet been passed; therefore the words *tempus legis* cannot refer to the legal end of Caesar's command. Before one can accept Hirschfeld's theory, the contradictions attendant upon his interpretation of the passage must be explained away.

The only piece of directly contrary evidence which Hirschfeld is able to adduce is derived from three passages in Dio. In 39.33 Dio mentions the fact that Pompey and Crassus had secured for themselves a command of five years each, and had placated the Caesarian party *ὥστε τὴν ἡγεμονίαν καὶ ἐκείνῳ τρία ἔτη πλείον, ὥς γε τὰ λήθεις εὐρίσκειται, μὴ κύναι*. Hirschfeld supposes this statement to be especially authoritative because it is based on Dio's researches and not on mere tradition. It might be urged, on the contrary, that the very fact that Dio stands alone in this should cast a shade of suspicion on the statement. A statement similar to the first is found in Dio 44.43. There, in his funeral oration, Antony says that there had been granted to Caesar "a privilege which, from the time that we became a republic, no other man has enjoyed,—I mean holding the command during eight whole years in succession" (Cary's translation). In 40.59 Dio observes that, when Marcellus, in the year 51, pro-

posed to send messengers to Caesar before the proper time, Pompey did not agree: "... he arranged matters so that when Caesar should have served out the time allowed him,—an event not of the distant future, but due to occur the very next year,—he should lay down his arms and return home to private life" (Cary's translation). According to Hirschfeld's contention, Caesar's term was to end in 50, and according to Dio the term was eight years. If, as Dio says, the eight-year term was composed of a period of five years and one of three years, then the five years must have ended in March, 53. But the one point on which there is any unanimity is that the first five years ended on March 1, 54, and therefore Dio's three years would have had to end in 51. This makes for a discrepancy of one year if we follow Hirschfeld's reasoning.

It will be well at this point to come to closer grips with the question of appointing a successor to Caesar. I follow here the argument of Hardy (page 176). Caesar's first five years began on March 1, 59. Cicero says (*De Provinciis Consularibus* 37): *Ianuario, Februario provinciam non habebit: Kalendis ei denique Martiis nascetur repente provincia*. Provincial commands under the Sullan system regularly began on January 1. The only constitutional way of appointing a successor to a provincial governor, except by the promulgation of some special legislation, was to fix his province in advance as either consular or praetorian. But this might be blocked by a tribunician veto. Hence Cicero says (*De Provinciis Consularibus* 17), *Sed, mihi credite, numquam succederetur illis nisi cum ea lege referetur qua intercedi de provinciis non licebit*, that is, by designating the provinces as consular for the year 54 in accordance with the *Lex Sempronia*, which forbade *intercessio*. When Cicero writes in the year 56 (*Ad Fam.* 1.7.10), *Nam ... ne Caesari Lege Sempronia succederetur facile perfectum est*, Caesar's provinces had not been made consular for the year 54, in accordance with the *Sempronian Law*. The question does not emerge again until 51. The *Lex Pompeia-Licinia* had extended Caesar's command, and, whether or not it fixed any term, it at least forestalled discussion until March, 50. But in 52 the question received some new complications by virtue of Pompey's law requiring that a five-year interval elapse between a magistracy and a provincial command. This ended the Sullan system of provincial administration, and rendered uncertain the application of the *Sempronian Law* to the consular provinces.

The abolition of the Sullan system had upset the whole business of provincial administration. After Pompey's law, it became impossible to give Syria and Cilicia to the consuls of 52. So, after some delay, Cicero and Bibulus were sent out. As there was no large number of ex-consuls and ex-praetors available, it may be supposed that many of the provincial commands in 51 began later than usual; hence it would have been natural to retain in their provinces all the governors throughout the year 50, and to make the new appointments for 49. The question of all the provinces might have been settled on March 1, 50, the

date when the matter of the Gallic provinces might legally be brought up, and this would have been to Caesar's advantage, for, in a general debate on the provinces, one or more of his own might be left out, and the appointments made from the remainder.

What happened was this. In September, the Senate passed several decrees on the subject of the provinces. The first provided that a meeting of the Senate be convened on the first of March following to settle by debate the consular provinces. This was the date fixed by the Lex Pompeia-Licinia; hence the Gallic provinces could be included in the debate. It may be that the intention was to fix one or both of Caesar's provinces as consular for the year 49, as Marcellus had attempted to do before. This was in consonance with the agreement between Caesar and Pompey; so the tribunes interposed no objections. The second decree was much different. The abrogation of the Lex Sempronia had made it possible for measures regarding the consular provinces to be blocked by veto of the tribunes; hence it was decreed that any tribune who tried to veto the settlement of the consular provinces should be considered as acting *contra rem publicam*. The third decree was in direct opposition to Caesar's interests. It provided that the praetorian provinces be considered first, so that the consular provinces would be those not designated as praetorian. The decree stipulated that the praetorian provinces be filled by praetors of five years' standing, or, failing this, of four years', or less. Thus all hope vanished that Caesar's provinces would be left out, because only Syria and the Gallic provinces were left to the ex-consuls. Hence it was that Pansa vetoed the bill. But, although the disposition of the praetorian provinces was left in abeyance, the Senate could still take up the matter of Caesar's provinces on March 1, 50, the preclusive date of the Lex Pompeia-Licinia. Appian (2.27) says that a decree was passed *πέμψαντες Καίσαρι διαδόχους ἐπὶ τὰ ἔθνη, καὶ γὰρ ἐληγμένον ὁ χρόνος*, but he seems to have meant by this not a proposition for the immediate recall of Caesar, but one for sending out his successors when the legal time limit of the command had expired.

Hirschfeld argues that this proposal meant that Caesar should be relieved of his command at once, in other words, that the Senate, on March 1, 50, should not only fix his provinces as consular or praetorian, but should on that same date send out his successor. According to the procedure governing such appointments the only way in which a successor could be named for Caesar was to make his provinces either consular or praetorian from a fixed date. The abrogation of the Lex Sempronia would make it possible for the Senate to make this designation for the year 49, instead of for 48. But it is going a trifle far to assume, as Hirschfeld does, that the abrogation of the Sempronian Law had entirely eliminated from the provincial settlements any exercise of rule or custom, and to suppose that the Senate could on the same day declare a province consular and send out the appointee. That this was not the case with the praetorian provinces was demonstrated by the *auctoritas* of September, 51

(Cicero, Ad Fam. 8. 8), and there is no reason to suppose that the consular provinces were to be settled differently. Besides, there were already two consular provinces, Syria and Cilicia, which would not become vacant until June or July, and it is not likely that Caesar's provinces would be made consular and filled at once, before these others, already in the consular class, were considered. When in December, 50, Cicero used the phrase *praeteriit tempus legis* (Ad Att. 7. 9), if he referred to March 1, 50, he must have regarded this as the legal end of Caesar's command. Hirschfeld does not contend that this was the case; in his view the date was preclusive and could only be the actual termination if the Senate were able to appoint a successor on that date. Therefore his statement that there was stipulation made in the Lex Pompeia-Licinia for definite termination to Caesar's command is open to question. Hirschfeld's theory presupposes a foreknowledge of what the Senate's action would be, for the real termination of the command would be decided upon by the Senate, and could not, therefore, have been determined in advance.

We turn now to a consideration of the arguments of Judeich (Rheinisches Museum 68 [1913], 1-10). His contention is that Caesar's command was to end on December 29, 50. This conclusion is based partly on a different interpretation of some of the passages used by Hirschfeld, partly on conjectures as to the general trend of events.

The first point which Judeich makes is that one of Cicero's letters (Ad Att. 7.7.6), written between December 18 and 21 of the year 50, shows that Caesar's command was to end in December, 50. Cicero says: '... What, then? Ought we to allow a man who still retains his army after his legal term has expired to stand for the consulship? ... Do I approve of the ten-year term of office, carried in the way it was?' There is also a passage in another letter (Ad Att. 7.9.4), which has already been considered in connection with Hirschfeld's argument, which Judeich considers important for his own position. Cicero says here:

'... You have held a province for ten years, a term which you secured not by authority of the Senate, but by your own violence and arbitrariness. Now that period—not one of law, but of your own self-willed choice, but let us call it law—has elapsed, and a vote is passed for your successor'.

Judeich admits that the period for which Caesar was first appointed ended on February 28, 54, and that the extension was for another five years, but he regards the difference between ten years and nine years and ten months as of no moment. Hence he believes that Cicero is speaking in round numbers when he speaks of a ten-year term. If Judeich insists on a strictly literal interpretation of Cicero's words, he must acknowledge that, since Cicero was writing on December 26 or 27, Caesar's command had already expired on that date. Again, to be perfectly logical, he should argue that, on the very day on which Cicero was writing, the Senate was actually engaged in appointing a successor to Caesar. I think that the more reasonable view is that of Tyrrell (Correspondence of Cicero², 3.323). In discussing the passage in question, Tyrrell says:

The ten years' period of office would not expire till February 28 of the following year, 49. This letter was written at the end (the last few days) of 50, and the Senate would not make their decree appointing a successor till the beginning of Jan. 49. So when Cicero writes *praeterit* and *decernitur* he is anticipating, and referring to what will take place in a few days, not to the actual present....

But Judeich has another argument. He says (page 7):

'Far stronger than this negative reason that December 29, 50 marked the end of Caesar's command, is the positive reason which lies in the relation between this date and the provincial commands of equal duration of the two other triumvirs, and in Caesar's policy just before the outbreak of the Civil War. On December 29, 50 the commands of Pompey and of Crassus came to an end. Just as it is probable in itself that the extension of Caesar's five-year command was definitely regulated, so we may also assume that it did not extend beyond the termination of the commands of Pompey and of Crassus. Hence it is nowhere reported, and is in the nature of things scarcely to be believed, that Caesar, who had only made the necessary arrangements with Crassus in Ravenna, and had thereafter won over Pompey, who had up to that time been hostile to him, to a renewal of the triumvirate, had acquired any special advantages in the settlement. From the very beginning of the triumvirate Caesar had understood how to efface himself and still look after his own advantage. Here he would have had regard for the boundless arrogance of Pompey, with which he was well acquainted, and would not have demanded too much for himself. So far as we can judge, the basis for the settlements at Luca was equal rights for all the triumvirs: the consulate, and a command extending over five years. While Pompey entered with Crassus on the consulate while still retaining his *cura annonae*, Caesar was at a disadvantage, inasmuch as, in accordance with the law then in force, he could not hold the consulship until ten years after his first consulship in 59, that is, in 48 at the earliest (Mommson, Staatsrecht, I^o 519); and so in the extension he lost two months'.

On pages 3 and 4 of his article Judeich points out that by the Trebonian Law of 55 Syria was assigned to Crassus and the Spains to Pompey for a period of five years. He then says:

'... There is not the slightest reason to suppose that in this case there was any departure from the prescribed rule which established the first of January of the year following the consulate as the beginning of the proconsular year'.

Accordingly, he supposes that Pompey and Crassus were to hold office from January 1, 54 until December 29, 50. Therefore, if an equitable arrangement were to be effected, Caesar's command must terminate at the same time as the commands of Pompey and of Crassus.

This is at best no better than an assumption. So it is quite legitimate to oppose it with another assumption which rests on grounds equally good. Taking into consideration the fact that Pompey and Crassus desired the consulship chiefly as a means toward their military aggrandizement, we may conjecture that the necessary legislation would have been promulgated early in the year, and that the provincial commands of Pompey and of Crassus would have begun at once, following the precedent established by Caesar.

There is one point of agreement between the theory of Hirschfeld and that of Judeich. Both scholars

believe that, when Caelius wrote that the Senate wished Caesar to leave his provinces on November 13 (Ad Fam. 8.11.3), he meant the year 50. Here, however, Judeich is met by Hirschfeld's argument: if, as Judeich contends, Caesar's term did not legally expire until December 29, 50, how could Pompey claim that the proposal of the Senate was fair? Judeich says (6-7):

'Here it is merely a question of surmises on the part of Caelius in reference to the fact that the Senate had suggested that Caesar leave his province on November 13, and Pompey in his vacillating fashion had taken no definite stand on the matter, and had only let it be known privately that this arrangement was agreeable to him. Besides, it is nowhere stated that Caesar was not originally granted the command to the end of the year 50; he was only to vacate the place when his successor came in. Caelius's description of Pompey's vacillation is clear evidence of the fact that Pompey had an uneasy conscience at the time of his concurrence with the Senate'.

Professor Tenney Frank has offered a convincing explanation of this compromise by Pompey, which seems to me to clear up the matter perfectly. He says (The Classical Review 33.69):

Since Pompey's proposal was, according to Caelius, an offer that pretended to be fair to Caesar, Pompey evidently undertook to prove that it gave Caesar his legal term in the province. His offer therefore probably contained a clause which was to restore in February of 49 the forty-five days that the calendar had lost by two previous failures to insert intercalary months, for if these were restored there would be exactly 365 days in the year 49 before the Ides of November. It is apparently on the basis of such a clause that Pompey could claim that his offer was fair to Caesar. The reason why this and other details did not appear in the letter of Caelius is that complete copies of the bills and speeches accompanied the letter....

If this is the solution of the difficulty, the offer must apply to the year 49, for it was made in April or May of the year 50, and there could hardly be a question of intercalation before February of 49. Hardy's contention that Caesar had a legal right to his province throughout 49 is therefore supported by this passage....

In consideration of the points which have been discussed, I believe that neither Hirschfeld nor Judeich has proved his case, and that Caesar had some legal justification in resorting to arms in order to assure to himself what he believed to be his rights. What Caesar chiefly desired was to retain his command until he entered upon his consulship, and to do this it was necessary that he secure the privilege of canvassing in absence; hence his insistence upon the *absentis ratio*. In order to be able to step from his proconsulship directly into a second consulship, Caesar was willing to make concessions, since it would be fatal for him to leave any interval in which, as *privatus*, he might be attacked. Therefore he offered to resign Transalpine Gaul with eight legions, if he might be allowed to keep Cisalpine Gaul with two legions, or even Illyricum with only one, until he should actually become consul (compare Suetonius, Iulius 29; Appian, Bella Civilia 2.32).

The demands (*minaces et acerbae*, Cicero, Ad Fam. 16.11.2) which Caesar sent in may have been an iteration of his claim to continue in his province until he

should enter upon the consulate. The result was an ultimatum from the Senate that a definite day should be set before which he should give up his army; refusal to comply would constitute an act of war (Caesar, B. C. 1.1). The tribunes blocked the decree, whereupon the Senate adopted the extreme measures against Curio which were urged upon them by the hysterical Marcellus. There was no legal objection against Curio's exercising the veto power, and Caesar could plead that this was the only way to offset Pompey's betrayal of him in the *Lex de iure magistratum*.

As soon as the Senate had passed the *consultum ultimum*, there was no legal objection to the recall of Caesar on March 1. The system of provincial administration was in confusion, and the assignment of provinces had been in abeyance since the previous March. But now the routine was observed as far as possible. The fate of the provinces was determined, Syria and Transalpine Gaul were made consular, and the remaining provinces were designated as praetorian. These provincial settlements had a profound effect upon Caesar's interests. The *absentis ratio*, which was so necessary for him, had presupposed that he would be in Gaul at the time of the consular elections. Now he was being recalled to Rome, a *privatus*, with all concessions denied. Hence he says (B. C. 1.9): *doluisse se quod beneficium populi Romani per contumeliam ab inimicis extorqueretur, ereptoque semenstri imperio in urbem retraheretur, cuius absentis rationem haberi populus iussisset*.

To conclude then, we may say that Caesar, in marching his army on Rome, was not merely defending the sanctity of the tribunate, which had been violated in the case of Curio, but he was also protecting rights granted him by the consent of the people and afterwards withheld by the duplicity of Pompey.

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REVIEW

Martial and the English Epigram from Sir Thomas Wyatt to Ben Jonson. By T. K. Whipple. University of California Publications in Modern Philology, Volume 10, Pages 279-414. Berkeley, California: University of California Press (1925). \$1.75.

Mr. Whipple's monograph, *Martial and the English Epigram*, etc., is a well-written study of an interesting subject. It traces the influence of Martial on the English epigram, from Timothy Kendall and his *Flowers of Epigrammes* (1577), down to Ben Jonson, who really (406) "started the epigram on its career as a reputable literary form". One important chapter (III, 327-366) deals with the five English epigrammatists who wrote in the last decade of the sixteenth century: Sir John Davies, Sir John Harington, Edward Guilpin, Thomas Bastard, and John Weever. The author provides a useful Bibliography (407-411) and a good Index (412-414).

Dr. Whipple pays some attention to sources other than Martial, and a few further suggestions of the sort

may be offered here. First I venture some guesses as to Nicholas Grimald's sources (314).

"The Muses" was probably derived from a poem called *Nomina Musarum*, or *De Musarum Inventis* (*Anthologia Latina*, edited by Riese, 664; Ausonius, edited by Peiper, page 412).

"Musonius the Philosopher's Saying" is a paraphrase of a Greek saying quoted by Aulus Gellius 16.1.2.

For "Marcus Cato's Comparison of Man's Life with Iron" see *Fragmenta Poetarum Romanorum*, as edited by Baehrens, page 57: *Nam vita humana prope uti ferrum est*, etc.

For "Cleobulus the Lydian's Riddle" see the Greek Anthology 14.101.

The beginning of the poem "To L. J. S.",

Charis the fourth, Pieris the tenth, the second
Cypris, Jane,
One to assemblies three adjoyn'd,

is very like one of Sannazaro's Latin epigrams (3.2):

Quarta Charis, decima es mihi Pieris, altera Cypris,
Cassandra, una choris addita diva tribus.

The lines "To his familiar Friend" are based on an epigram of Muretus. See H. H. Hudson, in *Modern Language Notes* 39.393.

"The Garden" is a paraphrase of a Latin poem *De Laude Horti*, or *De Laudibus Hortuli* (*Anthologia Latina*, edited by Riese, 635; Scaliger, *Catalecta Virgilii*, Leyden edition [1617], page 176).

In connection with page 315 a few Latin items may be added to the table of Turberville's sources.

For "A Thracian boy", etc., compare *Anthologia Latina*, edited by Riese, 709, *Thrax puer adstricto glacie cum luderet Hebro*, etc. Professor K. P. Harrington (*Mediaeval Latin* [1925], page 124), quotes a Latin version from Paulus Diaconus.

For "I, Dido and the Queen of Carthage", compare Ausonius, as edited by Peiper, page 420; Marullus, *Epigr.* 1.11.

For "the poet Homer", compare Marullus, *Epigr.* 3.6.

I append, finally, some remarks on page 349, note 32. Kendall's epigram "Hermaphroditus speaketh" ("Out of Pulix an auncient poet") may be due to Angelo Poliziano, who quotes a ten-line "Latinum epigramma Pulcis antiqui poetae", and turns it into Greek (1494). The poem was once ascribed to "Pulex Vicentinus", and it has been proposed to identify the author with Pulci of Custozza, a historian who flourished about the middle of the fourteenth century. Joseph Scaliger ascribed it to "Pollux" (*Catalecta Virgilii*, page 231). It is probably medieval; A. Riese (*Anthologia Latina* 786), quotes it from a twelfth-century MS., and L. Traube was inclined to ascribe it to Matthew of Vendôme (*Abhandlungen der Kaiserlichen Bayerischen Akademie*, 19.319). It was imitated in Latin by Nicolas Bourbon, *Nugae* 1.82, and translated into French by Jean de la Taille and Gilles Ménage. Dr. Whipple refers to another English version of it in Sir John Harington, *Epigr.* 3.37.

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